IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

MONDAY, THE 11TH JUNE 2007 / 21ST JYAISHTA 1929

MFA.No. 639 of 2000

IC.17 of 2005 OF S.I. COURT, IDUKKI
.....

APPELLANT/APPLICANT:

SAKTHI TOURIST HOME, BAKER JUNCTION,
KOTTAYM REP. BY ITS MANAGING PARTNER
MATHEW PHILIP.

BY ADV. SRI.A.V.XAVIER

RESPONDENT/OPPOSITE PARTY:

EMPLOYEES STATE INSURANCE CORPORATION,
PANCHDEEP BHAVAN, N.S.ROUND, THRISSUR-20.

BY ADV. SRI.SANKARANKUTTY NAIR SC, ESI CORPN.

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 11/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B.Koshy & K.P.Balachandran, JJ.

M.F.A.No. 639 of 2000

JUDGMENT

Koshy, J.

The appellant Establishment was issued with a notice by the E.S.I. Corporation contending that it was employing more than ten persons and it is covered as a factory as power is used. Challenging the above, the appellant approached the E.I. Court. The E.I. Court found that since power is used, it is a factory. But, the question is whether ten or more persons are employed on any day in that Establishment. The Muster Rolls, Ledger, etc. were produced to show that the appellant never employed ten or more persons on any day. It is the contention of the appellant that they never employed more than nine persons in a single day. In other words, some casual employees employed may work for a day or two days in a month. But, the total number employed in a day never exceeded 9,

including casual employees. It was also submitted that out of the persons mentioned as employees, one person has exceeded the coverage and he cannot be looked into for the coverage purpose. The E.I. Court did not consider the question whether the appellant had employed ten or more persons, who are covered under the E.S.I. Act, on any day, during the relevant period. We are of the opinion that this matter has to be re-considered by the E.I. Court. Hence, without expressing any opinion regarding the merits of the case, we remand the matter. Both parties are free to adduce any further evidence in the case. Parties may appear before the E.I. Court on 6.8.2007.

(J.B.Koshy, Judge)

11th June, 2007

(K.P.Balachandran, Judge)

tkv

J.B.Koshy & K.P.Balachandran, JJ.

M.F.A.No.639 of 2000

JUDGMENT

11th June, 2007